

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: December 7, 1993.

Robert H. Volland,

Acting Deputy Associate Director, Mitigation Directorate.

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By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips and Philbin.

Sidney L. Strickland, Jr.,

Secretary.

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✓ DEPARTMENT OF COMMERCE

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1312

[No. 40868]

Reconsideration of Special Tariff Authorities Authorizing the Publication of Customer Account Codes in Tariffs

AGENCY: Interstate Commerce Commission (ICC).

ACTION: Proposed rule; withdrawal.

SUMMARY: In a decision served September 1, 1993 and published at 58 FR 47104 (Sept. 7, 1993), the Commission proposed a regulation which would permit tariffs to continue to identify traffic to which rates apply by undisclosed customer account (or shipper) codes provided such tariffs include appropriately specific commodity and origin/destination information. Since then, however, the Negotiated Rates Act of 1993, enacted on December 3, 1993, has amended 49 U.S.C. 10762 by adding subsection (h), which requires carriers using customer account code tariffs to set forth in the tariff the name of the customer for each account code. Carriers are required by the statute to comply with its requirements by June 1, 1994. Because section 10762(h) supersedes the proposed rule, the ICC is withdrawing the proposal and discontinuing this proceeding.

FOR FURTHER INFORMATION CONTACT: James W. Greene (202) 927-5597 or Ronald A. Hall (202) 927-5595; TDD for hearing impaired: (202) 927-5721.

SUPPLEMENTARY INFORMATION: Additional information is contained in the ICC's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. (Assistance for the hearing impaired is available through TDD service (202) 927-5721.)

Decided: December 14, 1993.

National Oceanic and Atmospheric Administration

50 CFR Part 227

Listing Endangered and Threatened Species and Designating Critical Habitat: Petition To List Deer Creek Summer Steelhead

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of finding; initiation of status review and request for information.

SUMMARY: NMFS has received a petition to list indigenous, naturally spawning Deer Creek summer steelhead (*Oncorhynchus mykiss*) and to designate critical habitat under the Endangered Species Act of 1973 (ESA). The petition presents substantial scientific information indicating that the action may be warranted. Therefore, NMFS is initiating a status review to determine if the petitioned action is warranted. To ensure that the review is comprehensive, NMFS is soliciting information and data regarding this action. Information received during this status review will be used also in NMFS' ongoing review of all coastal steelhead populations in California, Oregon, and Washington.

DATES: Comments and information must be received by February 22, 1994.

ADDRESSES: Copies of the petition are available from, and comments should be submitted to Merritt Tuttle, Chief, Environmental and Technical Services Division, NMFS, 911 NE 11th Avenue, room 620, Portland, OR 97232.

FOR FURTHER INFORMATION CONTACT:

Garth Griffin, NMFS, Northwest Region, (503) 230-5430 or Marta Nammeck, NMFS, Office of Protected Resources, (301) 713-2322.

SUPPLEMENTARY INFORMATION:

Background

Section 4 of the ESA contains provisions allowing interested persons to petition the Secretary of the Interior or the Secretary of Commerce to add a

species to or remove a species from the List of Endangered and Threatened Wildlife and to designate critical habitat. Section 4(b)(3)(A) of the ESA requires that, to the maximum extent practicable, within 90 days after receiving such a petition, the Secretary make a finding whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted.

Petition Received

On September 21, 1993, the Secretary of Commerce received a petition from Washington Trout to list indigenous, naturally spawning Deer Creek summer steelhead, and to designate critical habitat under the ESA. The Assistant Administrator for Fisheries, NOAA (AA), makes a finding that the petition presents substantial scientific information indicating that the petitioned action may be warranted based on the criteria specified in 50 CFR 424.14(b)(2), and based on evidence presented in the petition that the petitioned population may qualify as a "species" under the ESA in accordance with NMFS' "Policy on Applying the Definition of Species under the Endangered Species Act to Pacific Salmon" (56 FR 58612, November 20, 1991). Under section 4(b)(3)(A) of the ESA, this finding requires that a review of the status of Deer Creek summer steelhead be conducted to determine if the petitioned action is warranted. Information received during this status review will be used in NMFS' ongoing review of all coastal steelhead populations in California, Oregon, and Washington (53 FR 29390, May 20, 1993).

Listing Factors and Basis for Determination

Under section 4(a)(1) of the ESA, a species can be determined to be endangered or threatened for any of the following reasons: (1) Present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence. Listing determinations are made solely on the best scientific and commercial data available.

Biological Information Solicited

The Deer Creek basin is situated north and northeast of Oso, Washington, where Deer Creek enters the North Fork of the Stillaguamish River. To ensure that the Deer Creek status review is

complete and is based on the best available scientific and commercial data. NMFS is soliciting information and comments concerning: (1) Whether or not the stock qualifies as a "species" under the ESA in accordance with NMFS' "Policy on Applying the Definition of Species under the Endangered Species Act to Pacific Salmon" (56 FR 58612, November 20, 1991) and (2) whether or not the stock is endangered or threatened based on the above listing criteria. Specifically, NMFS is soliciting information in the following areas: Influence of historical and present hatchery fish releases on naturally spawning stocks of steelhead; separation of hatchery and natural steelhead escapement; alteration of steelhead freshwater and marine habitats; age structure and life history of steelhead; migration timing and behavior of juvenile and adult steelhead; relationship between summer and winter steelhead; relationship between steelhead and resident rainbow trout; and interactions of steelhead with other salmonids. This information should address all steelhead populations in the Deer Creek basin, as well as steelhead populations along the Washington coast, Puget Sound, Strait of Juan De Fuca, and Strait of Georgia. Copies of the petition are available (see ADDRESSES).

Critical Habitat

NMFS is also requesting information on areas that may qualify as critical habitat for Deer Creek summer steelhead. Areas that include the physical and biological features essential to the recovery of the species should be identified. Areas outside the present range should also be identified if such areas are essential to the recovery of the species. Essential features should include, but are not limited to:

- (1) Space for individual and population growth, and for normal behavior;
- (2) Food, water, air, light, minerals, or other nutritional or physiological requirements;
- (3) Cover or shelter;
- (4) Sites for breeding, reproduction, rearing of offspring; and generally,
- (5) Habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of the species.

For areas potentially qualifying as critical habitat, NMFS is requesting information describing: (1) The activities that affect the area or could be affected by the designation, and (2) the economic costs and benefits of additional requirements of management

measures likely to result from the designation.

The economic cost to be considered in the critical habitat designation under the ESA is the probable economic impact "of the (critical habitat) designation upon proposed or ongoing activities" (50 CFR 424.19). NMFS must consider the incremental costs specifically resulting from a critical habitat designation that are above the economic effects attributable to listing the species. Economic effects attributable to listing include actions resulting from section 7 consultations under the ESA to avoid jeopardy to the species and from the taking prohibitions under section 9 of the ESA. Comments concerning economic impacts should distinguish the costs of listing from the incremental costs that can be directly attributed to the designation of specific areas as critical habitat.

Data, information, and comments should include: (1) Supporting documentation such as maps, bibliographic references, or reprints of pertinent publications, and (2) the commenter's name, address, and association, institution, or business.

Nancy Foster,
Deputy Assistant Administrator for Fisheries.
(FR Doc. 93-31330 Filed 12-22-93; 8:45 am)
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50 CFR Part 630

[Docket No. 931078-3278; I.D. 100593C]

RIN 0648-AF42

Atlantic Swordfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NMFS issues this proposed rule to implement, on an experimental basis, a voluntary, pilot program that would allow retention of undersized swordfish in excess of the trip allowance for donation, through charitable organizations, to needy individuals. The intended effect is to investigate the potential for avoiding waste of swordfish that would otherwise be brought aboard already dead and subsequently would be discarded to obtain additional information regarding the harvest, mortality, and biological characteristics of swordfish less than the minimum size limit.

DATES: Written comments must be received on or before January 24, 1994.

ADDRESSES: Copies of documents supporting this action may be obtained

from, and comments on the proposed rule should be sent to, Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, NMFS, 1335 East-West Highway, Silver Spring, MD 20910. Comments on the information collection requirements should be sent to Richard H. Schaefer and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: Desk Officer for NOAA).

FOR FURTHER INFORMATION CONTACT:
Richard B. Stone, 301-713-2347.

SUPPLEMENTARY INFORMATION: The Atlantic swordfish fishery is managed under the Fishery Management Plan (FMP) for Atlantic Swordfish (FMP) and its implementing regulations at 50 CFR part 630 under the authority of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Magnuson Act) and the Atlantic Tunas Convention Act (ATCA) (16 U.S.C. 971 *et seq.*). Regulations issued under the authority of the ATCA carry out the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT).

Background

At the 1990 meeting of ICCAT, member nations recommended international measures to reduce fishing mortality of swordfish. In June 1991, NMFS implemented regulations, consistent with the ICCAT recommendations, which included a minimum size limit of 41 pounds (18.6 kg) dressed weight or 31 inches (78.7 cm) carcass length, with a trip allowance for undersized swordfish in an amount not exceeding 15 percent of the total number of swordfish landed.

Although large swordfish are the preferred target of U.S. swordfish vessels, harvest of some undersized swordfish is unavoidable in most cases. Under current regulations, undersized swordfish in excess of the trip allowance must be discarded, despite the fact that many of these fish are dead prior to being brought aboard the vessel. This results in waste of the resource. If discards are not accurately reported, loss of information critical to proper stock assessment, in general, and to evaluation of the minimum size limit, in particular, also occurs.

NMFS, in cooperation with Blue Water Fishermen's Association, other members of the swordfish industry, National Fisheries Institute, and Second Harvest National Food Bank Network (Second Harvest), proposes a pilot program that would provide information regarding the harvest, discard, mortality,